

Office of Foreign Assets Control, Treasury

§ 539.204

539.802 Delegation by the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

539.901 Paperwork Reduction Act notice.

APPENDIX I TO PART 539—DESIGNATED FOREIGN PERSONS

AUTHORITY: 3 U.S.C. 301; 22 U.S.C. 2751–2799aa–2; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13094, 63 FR 40803, 3 CFR, 1998 Comp., p. 200.

SOURCE: 64 FR 8716, Feb. 23, 1999, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 539.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the provisions of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security contexts may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

(b) No license contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 539.201 Prohibited importation of goods, technology, or services.

Except as otherwise authorized, the importation into the United States, on or after the effective date, directly or indirectly, of any goods, technology, or services produced or provided by a designated foreign person, other than in-

formation or informational materials, is prohibited.

§ 539.202 Prohibition on import-related transactions.

Except as otherwise authorized, no United States person may finance, act as broker for, transfer, transport, or otherwise participate in the importation into the United States on or after the effective date of any goods, technology, or services produced or provided by a designated foreign person, other than information or informational materials.

§ 539.203 Evasions; attempts; conspiracies.

Any transaction by any United States person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited. Any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is prohibited.

§ 539.204 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication, which does not involve the transfer of anything of value.

(b) *Information or informational materials.* (1) The prohibitions contained in this part do not apply to the importation from any country, or to the exportation to any country, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials as defined in § 539.308, or any transaction directly incident to such importation or exportation.

(2) Paragraph (b)(1) of this section does not exempt from regulation or authorize transactions related to information or informational materials not fully created and in existence at the date of the transaction, or to the substantive or artistic alteration or enhancement of information or informational materials, or to the provision of marketing and business consulting services. Examples of prohibited transactions include, but are not limited to,

payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for mass-market magazines and other periodical publications that are widely-circulated); importation into the United States of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and payment of royalties to a designated foreign person with respect to income received for enhancements or alterations made by U.S. persons to informational or informational materials imported from a designated foreign person.

(3) Paragraph (b)(1) of this section does not exempt from regulation or authorize the importation into the United States of or transactions incident to the importation into the United States or leasing of telecommunications transmission facilities (such as satellite links or dedicated lines) for use in the transmission of any data.

(c) *Travel.* The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.

Subpart C—General Definitions

§ 539.301 Designated foreign person.

The term *designated foreign person* means any person determined by the Secretary of State pursuant to section 4(a) of Executive Order 12938 of November 14, 1994 (59 FR 59099, 3 CFR, 1994 Comp., p. 950), as amended by section 1(a) of Executive Order 13094 of July 28, 1998 (63 FR 40803, July 30, 1998), to be subject to import measures. Designated foreign persons are any persons listed in appendix I to this part and any entities owned or controlled by any person listed in appendix I to this part unless otherwise indicated in appendix I to this part.

§ 539.302 Effective date.

The term *effective date* means the “effective date” specified in the relevant FEDERAL REGISTER notice issued by the Department of State identifying a designated foreign person. This date is listed after the name of each designated foreign person in appendix I to this part.

§ 539.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, or other organization.

§ 539.304 Entity owned or controlled by a person listed in appendix I to this part.

The term *entity owned or controlled by a person listed in appendix I to this part* includes any subsidiaries and branches, wherever located, of entities listed in appendix I to this part, any successors to such entities, and any persons acting or purporting to act for or on behalf of any of the foregoing.

§ 539.305 General license.

The term *general license* means any license the terms of which are set forth in this part.

§ 539.306 Goods, technology, or services produced or provided by a designated foreign person.

With respect to the prohibitions in §§ 539.201 and 539.202, the term *goods, technology, or services produced or provided by a designated foreign person* includes but is not limited to the following:

(a) Goods grown, manufactured, extracted, or processed by a designated foreign person;

(b) Technology developed, owned, licensed, or otherwise controlled by a designated foreign person;

(c) Services performed by or on behalf of a designated foreign person, or by a third party under contract, directly or indirectly, to a designated foreign person, regardless of location.

§ 539.307 Importation into the United States.

The term *importation into the United States* means:

(a) With respect to goods or technology, the bringing of any goods or